

GRAND JURY REPORT

HAND IN THEIR FINDINGS TO
JUDGE WESTOVER AT FEB-
RUARY TERM OF COURT.

Receives Exhaustive Review and Dis-
trict Judge's Decision is Affirmed—
Other Cases Involving Numerous Of-
fenses Investigated and Disposed of.

In The District Court of Cherry Coun-
ty, Nebraska.
To the Honorable W. H. Westover,
Judge of said Court.

We the grand jury heretofore im-
paneled and sworn at this regu-
lar February 1912 term of said court,
respectfully submit the following re-
port and recommendations:

We have been called upon to in-
vestigate charges involving numerous
offenses of various kinds and degrees
of gravity.

We note an undue proportion of
cattle stealing, seven; libel, three;
horse stealing, one; stabbing with in-
tent to wound, one; and petty larceny,
one; assault with intent to inflict great
bodily injury, one; burglary, one.

We note an undue proportion of
charges of cattle stealing, and an un-
due number of reports of such thefts
through the county. This crime which
has seemed to be for some years on
the decrease, has apparently been re-
vived, and we regret to note that it
seems to be quite prevalent in the
county. We have some reason to be-
lieve that this increase is due to the
fact that the owners of stolen stock
have in some instances made pecu-
niary settlements with the thieves,
when discovered, instead of insisting
upon letting the law take its course.

We condemn this practice as having
a tendency to encourage instead of
suppressing the crime of stealing
stock. And we recommend that in the
future in cases of this kind where it
can be proven that the owners of stolen
stock have compounded the felony for
a monetary consideration that a
prosecution be well as against the actual
thieves themselves.

We note a large amount of brawling,
petty assaults, and an unnecessary
handling of firearms in a threatening
manner among the people of this coun-
ty, and we strongly urge upon the
proper authorities that all such cases
be vigorously prosecuted.

In various parts of the county, set-
tled largely by Kinkaid homesteaders
who are not able to live upon their
homesteads all the time, but have to
be absent for the purpose of earning a
livelihood, there seems to be an
epidemic of the crime of breaking in-
to houses in the owner's absence and
stealing articles therefrom. It is re-
ported to us that this crime is so com-
mon in some parts of the county that
homesteaders are unwilling or afraid
to leave their homes at all, for fear
that when they return that they may
find the contents of their homes, or
even the house itself, gone. We there-
fore urge the prosecuting authorities of
this county to pay special attention to
the prevention and punishment of this
class of crime. We have observed that
quarrels, litigation and crime
arises in this county from the hideous-
ly incorrect system of surveys of the
public lands. It is doubtful if any
county in the state of Nebraska con-
tains one half the number of wrong-
fully placed section corners and other
monuments of surveys. The troubles
to which this gives rise are endless;
and we strongly urge upon the county
authorities that they render all support
in their power to our representatives
in congress to the end that a cor-
rect and adequate system of surveys
may be had and made in this county.

On the question of public adminis-
tration after due investigation and
consideration, we make the following
recommendations to the Commission-
ers and the inhabitants of Cherry coun-
ty.

The present system of handling the
poor of this county has been found to
be wasteful and detrimental to the
interests of the tax payers, allowing
petty graft in the furnishing of sup-
plies and permitting many people to
become county charges without due
reason. We further find that there
are an increasing number of people
not sufficiently demerited to warrant
their confinement in the state insane
asylum who should, nevertheless, not
be allowed to be at large. To correct
this state of affairs, the county com-
missioners of this county, should at
their earliest opportunity make con-
sideration for the establishment of a
county poor farm and a tax levy to cover
the institution and maintenance of
same.

After due inquiry it has been found
that the annex to the Donohoe Hotel
in the city of Valentine is three stories
in height and has insufficient means
of exit in case of fire and it is re-
commended to report by this grand
jury that the owner or lessee be re-
quired to equip said building within a
reasonable time with steel or fire-
proof fire escape to conform to the
statutes of this state governing such
structures. The same recommendation
is made with reference to the Lake
View hotel at Wood Lake, Neb-
raska.

It is also recommended that addi-
tional exits for use in case of fire be
installed by O. W. Morey of Valentine
in his Jewel Theater.

We would call attention to all the
residents of this county to the fol-
lowing statute:—

"If any person shall wrongfully take
any horse, mare, gelding, foal or filly,
ass or mule from the stable, lot, or
pasture of another or from a hitching
rack, or any other place as aforesaid
having been lawfully placed, without
the consent of the owner, with intent
to injure, set at large or wrongfully
use the animal taken, such person
shall be fined in any sum not exceed-
ing \$10.00 or be imprisoned in the
county jail not exceeding 3 (three)

months, in the discretion of the court,
and shall also be liable to the party
injured in double the amount of dam-
ages sustained.

In accordance with the state law
we have inspected the county jail
and find a most deplorable condition
of affairs due entirely to its present
location in the basement of the coun-
ty court house. The county officials
have done the best possible under the
circumstances, but it is of necessity
unsanitary and a menace to the life
of any party therein confined, and no
provision can be made for confinement
of women prisoners. It can not be
properly drained or ventilated, cleaned
heated or sanitary disposition of of-
fal made.

Provision should be made without
delay for the building of a combined
jail and sheriff's residence, either by
special levy or voting of bonds.

In this connection the commission-
ers should prohibit the use of this jail
by the village of Valentine.

By far the most important of the
matters which have come before us
and our attention has been the mur-
der of Charles Sellers on June 18th,
1911, by Alma Weed, George B. Weed,
Harry Heath and Kenneth Murphy.

As the four above named persons are
already serving sentences of impris-
onment in the penitentiary for life,
the question of their guilt or inno-
cence was not before the grand jury;
but out of the murder there have
arisen a number of rumors and
charges against various persons who
were supposed to be implicated in the
crime to a greater or lesser extent.

In this case alone we have examined
some eighty-five witnesses, and have
devoted to it the greater portion of
nine days labor. We have inquired
fully into the motive for the crime,
and we have searched the county over
for witnesses who could give us any
information as to the motive, and as
to whether other parties were or were
not implicated in its commission, and
we submit herewith our findings in
detail.

In this connection we regret that
we cannot give statements of the
witnesses examined, because our oaths
as grand jurors absolutely prohibit us
from divulging the testimony of any
witness except in a court of justice,
and we therefore can give only the
findings which we make as a result of
the testimony of the witnesses.

The first question for consideration
before us in connection with the mur-
der of P. Sellers was the question
whether or not the crime was planned
beforehand, and if so, when and by
whom, and whether or not certain
parties assembled at the house of Mrs.
Heath, from which the convicted par-
ties set forth to the scene of their
crime, knew what was about to be
done, or aided, abetted or incited the
commission of the murder, or were in
any sense accessory thereto. The list
of witnesses whose testimony we
have taken on this point, is too long
to quote. But from the testimony ad-
duced, we believe that of the parties
assembled at the Heath home on the
night of the murder, four had knowl-
edge that a crime of some kind was
about to be committed upon Charles
P. Sellers, viz: Eunice Murphy, Mrs.
A. B. Croath, Albert Colvin and Wil-
liam McGee. It is clear to us that
these parties knew that some kind
of an outrage was to take place upon
Sellers, and the fact, which was ad-
mitted by all of them, that they took
no steps to prevent the commission of
the crime, places upon them in no
small measure the responsibility for
the hanging of Charles Sellers. It is
true that the telephone wires were cut
by the murderers within a very few
minutes after they left the Heath
home for the home of Hutch Jack,
where the murdered man was staying;

but we find that none of these par-
ties made any attempt to use the tele-
phone, although some or all of them
knew before the murderers left the
house that they were upon an unlaw-
ful errand, and could have telephoned
safely immediately upon their depart-
ure. And it further appears that
none of these parties in the home that
evening made any effort to reach a
neighbor's or to get to the scene of
the crime, or to secure help for the
victim in any manner whatever. Such
callous indifference to the suffering
of another is rare indeed in this coun-
try, and we regret that we find it im-
possible for legal reasons to indict
these persons as accessories to the
murder. We are advised that to con-
vict a person of the crime of being ac-
cessory to a murder, it must be proven
that such person aided, abetted, in-
cited, procured, assisted or took part
in the commission of the crime, and
that such person knew that the crime
was about to be committed, or was
not sufficient to convict. Our best
efforts to prove that some person or
persons have been and were access-
ories to this murder have failed to
find or develop sufficient testimony
to justify indictment, or to justify the
hope of a conviction of any one, and we
have therefore been compelled to find
and present no indictments against
any of the parties named in this para-
graph.

It has been openly charged that other
parties than the four convicted de-
fendants were present at the time and
place of the killing of Charles P. Sel-
lers, and held the horses of his mur-
derers while they were engaged in
the crime. On this point we have
taken the evidence of Harry Heath,
Hutch Jack, A. M. Morrissey, Eunice
Murphy, George Clizbe, W. D. Glas-
pie, Clyde Rosseter and Anna Shoup
and others, and we have read the de-
positions of George B. Weed, Alma
Weed and Kenneth Murphy and the
written confession of Harry Heath in
the Rushville Jail, and we have been
wholly unable to find that any person
whatever aided or assisted the mur-
derers in the commission of the crime
or held their horses, or took part in
any manner whatever.

Among the persons implicated by
rumors and charged with participat-
ing in this crime is Jesse V. West, a
ranchman in the vicinity. Mr. West
appears to have gone to the home of
Hutch Jack on the night of the mur-
der at the request of Flora Weed, for
the purpose of preventing the four
men convicted of this murder from
having any trouble with the murdered
man.

But the testimony of every witness,
and we have examined practically every
witness who came before us on this
point, utterly fails to show that
Mr. West had any warning or knowl-
edge or even intimation that a mur-

der was contemplated or was about to
be committed. It appears that Mr.
West rode to Hutch Jack's, a distance
of six or seven miles from his home,
saw the light extinguished, and Mrs.
Jack retiring for the night; saw no
sign of anything unusual or of any
trouble; saw no sign of the defend-
ants, and concluded that Miss Weed
had been mistaken in thinking there
was going to be trouble between these
parties, and rode home. This fact, to-
gether with Mr. West's non-appear-
ance at the coroner's inquest, and the
further fact that some members of
the Weed family worked for Mr. West,
and that others were visiting at his
home on the day of the murder, seems
to have given rise to a rumor that he
was a participant in the murder. We
find also from the evidence that Mr.
West sold a large number of cattle
soon after the trial of the four men
convicted of this murder, and it was
charged that he had sold these cattle
and spent the money for the purpose
of the defendant and assisting the con-
spirators to escape the punishment
of their crime. It was reported to us
that one witness knew that Mr. West
was present at the murder, and that
he had sold his cattle to raise money
for the defense, and this witness be-
ing brought in and interrogated flatly
denied ever knowing anything of the
kind, or making any such statements.

We have examined Mr. West's bank
account, and we have found that his
cattle were sold in the ordinary course
of business, and that after paying off
some indebtedness upon them, and
some small bills of no moment, the
money is still on deposit in the bank
of Cody, and has not been paid out to
retain counsel, or to assist in the de-
fense, or for any other purpose what-
ever connected with this crime.

We find from the evidence that the
report connecting Jesse V. West with
this murder is false and wholly un-
founded, and slanderous, and that by
reason thereof Mr. West and his fam-
ily have suffered embarrassment and
humiliation, and that a grave and se-
vere injustice has been done to them.

Another person living in the vicini-
ty of the crime, upon the hand of ru-
mor has been accused is Joseph Ed-
wards. He has been charged with be-
ing an accomplice in the matter, and
with knowing before hand that the
murder was to be committed. In this
connection we have taken the testi-
mony of twenty witnesses, and we
have failed to find any reason, basis or
foundation for such rumors and
charges. These rumors appear to
have their origin in unnecessary and
indiscreet talk emanating from Mrs.
Edwards; but we find nothing to im-
plicate either her or her husband, ex-
cept merely female gossip.

Many charges have been started,
and have been spread throughout the
country affecting the integrity of the
officers of the district court and the
county officials. It has been openly
charged among many other things,
that \$1,500 was sent through the First
National bank of Valentine to Judge
Westover for some corrupt purpose
in connection with this case; it has
been said that the Mormon church fur-
nished \$15,000 for the purpose of cor-
rupting and influencing the court, its
officers, and the officials of the coun-
ty; it has been charged that the sum
of \$100,000 was raised for the purpose
of corrupting the defense of the
murderers of Charles Sellers, and oth-
er persons implicated in the crime, of
which sum C. J. Anderson was report-
ed to have paid or furnished \$100,000.
This last statement bears upon its
face the mark of the wildest improb-
ability. And although we have exam-
ined practically every witness brought
before us, with the special object of
locating corruption, and dishonesty,
we have absolutely failed to find the
slightest basis in any of the rumors.

We find no evidence that the Mor-
mon church raised any money for this
defense or for any purpose connected
with it; and it has been proven to us
positively that no sum of money what-
ever was sent through the First Na-
tional bank to W. H. Westover. We
can find no reason for any suspicion
affecting the integrity of the district
judge or any of the county officials,
and there is not the slightest evidence
to justify a suspicion of corruption on
the part of any of them. We have
examined the bank account of the
clerk of the district court, the sheriff,
the county judge, and the county
clerk of Cherry county, and we find
nothing in any of them to indicate any
sum of money unaccounted for or re-
ceived from any corrupt source. We
have further examined the records of
the county for the purpose of finding
out if possible what sums of money
were raised by the families of the
men convicted of this crime, and we
can find no evidence even tending to
show the illegal or improper use of
money by any member of said families,
while we do find that to secure the
amounts acknowledged to have been
paid to the attorneys for this defense,
it seems to have been necessary for
their families to raise the money by
mortgages.

It has been openly charged and as-
serted that the confession of Harry
Heath, which had been placed in the
care of Mr. H. B. Sken and he him-
delivered to and filed with the clerk of
the district court, was wrongfully
opened at a sort of secret or "star
chamber" session, with no one present
except the district judge and the attor-
neys, and rumor has even gone so far
as to charge that part of this confes-
sion was abstracted and that when
brought back to the care of Mr. Sken
it did not weigh as much as it did
when delivered by him to the clerk of
the court. It has been said that a
part of this confession was removed
and taken away because it revealed
the names of other parties implicated
in the murder of Sellers, and that this
abstraction of part of this confession
was brought about by undue, im-
proper and corrupt means. In this
connection we have taken the testi-
mony of Harry Heath, who wrote the
confession; Mr. Sken, to whom it was
entrusted, and the judge of the dis-
trict court, the county attorney, the
sheriff, and a number of other wit-
nesses, and we find that the confession
is now in the same condition that it
was when Harry Heath sealed it in
the envelope to be delivered to Mr.
Sken; that it has not been tampered
with, nor has any part of it been ab-
stracted; that after the sentence was
imposed the four murderers of Sellers,
imposed upon the four murderers
of Sellers, it was deemed advis-
able to open this confession for the
purpose of finding out if

other persons were implicated in
the crime; that in an evening ses-
sion of the court, all of the officers of
the same being present, and the usual
evening audience, this confession was
opened in open court, and read aloud
by the county attorney in an ordinary
tone of voice, with no effort whatever
of concealment, and apparently with
no desire on the part of any one to
prevent the public from knowing the
contents of the confession. The con-
fession not revealing anything of spe-
cial interest to anybody, and being ap-
parently of no value in the way of im-
plicating other parties in the crime, it
was resealed in the original envelope
and returned to Mr. Sken. During this
session of the court it has been deliv-
ered by Mr. Sken to the grand jury,
and by them opened and read, and
identified in the presence of the
grand jury as the original and com-
plete confession of Harry Heath. For
the information of the citizens of Cher-
ry county, we hereby append a full,
true and correct copy of said confes-
sion of Harry Heath:

Confession of Harry Heath.

Rushville, Nebraska, September 21,
1911.—This day and date I, Harry
Heath, write this statement. The 15th
day of June they had a picnic over
south and I came home on Sunday. I
took Flora to the picnic and came
down home on Sunday about noon
and Jess West, Cotton, Burt and Alma
and Kenneth were there, when we
started to the ball game. Alma told
me about her and Kenneth went to
Lake and got shells and went over to
kill Charley and he was in bed and
they didn't get to see him, and he told
me that something had to be done, he
said that he came in the house Sat-
urday and he heard Eunice tell him some-
thing Charley had said to her and
they made her tell it over so they
could hear, and she did not want to
but they made her tell it and when
she told how Charley had threatened
her, they, Alma and Kenneth went
over to Lake, and got some shells and
went over to kill Charley and he had
gone to bed. Now this is what Alma
told me when we were going to the
ball ground and Alma said he was
going to talk with George and they
started to the Diamond Bar and when
I and some other boys had got to the
house in Lake, I told Kenneth that
I was going and told Alma not to tell
it what Charley had said and what
Alma and Kenneth had done the night
before and we met them coming back.
They said they were going over to
see him—Charley—asked us if we
would go along and we had not gone
far when George said they had a gun
at the Diamond Bar that he would go
and get if anybody would go with
Kenneth said he would go along so
his horse was tired and I spoke up and
said I would go with him and we got
to the Diamond Bar George went in
and got the gun and then Mrs. West
came and went in. George said he
had the shells for him and then
Jesse came and went into the house
where G. and Mrs. was in there and
I was at the gate; talked a little with
Flora when George came out and we
went up to our place, George called
Eunice out and he said he was going
to make Eunice tell everything Charley
had done and said they and Alma
talked there while I went after some
water; had to go by them and Eunice
was telling what Charley had said and
done they said they were there had
to be something done. George said
he would. Eunice begged not to do
anything with him that she would
leave, George said he would furnish
the rope which he done, Alma, Ken-
neth and George all had guns and
when we got over to Hutch's George
took the rope off his saddle and hand-
ed it to me and he went in; he said
before we got to Hutch's that he
would go in and talk with Hutch and
if Chas. was not there he would back
out and go to the Diamond Bar, that
Hutch would not think anything about
it.

Alma and Kenneth went up to the
corner of the house and I stood at the
well; thought I would not go any far-
ther, but then I thought they would
be mad at me if I did not go, and Alma
and Kenneth went into his bedroom
and fetched him out. I just went to
the door and all the rest went in and
I had thrown the rope down by some
boxes was there, and they brought
him out. George said where is the
rope and put it on him; so I done as
he said and then he said come this
way and went ahead and opened the
gates and Alma went in the barn and
got a rope and I asked him what he
was going to do with that; he said he
was going to tie his hands behind him
which he done and George told me to
go out to a telephone pole and we went
to two or three and was talking to
Charley. Alma said not to say any-
thing to him. I threw the rope over
the pole and Alma and Kenneth pulled
down on the rope and George lifted up
on his body and he did not struggle
or strangle a bit and was dead before
we had time to do anything, we were
so excited I didn't know what to do.
Alma wrapped the rope around the
pole some way, I don't know how, and
we went home. I seen then what we
had got into and got a team and went
to town. Kenneth wanted until morn-
ing, but I would not for I wanted to give
myself up as soon as I could, went to
Cody. If anybody were there besides
us four I didn't know it. George was
gone a quite a little while when he
went back after his horse. We did
not mean to turn Hutch's horse out
but we did cut the telephone. I held
the wire and George cut it with his
knife. Alma told me one time up by
Medicine Lake that if there was any-
body hanging around after his sister
like Char was after Kenneth's sister
he would kill him and he said was
what Kenneth ought to do, and he
told me one time in V. jail he knew
something was going to happen, that
his life was a blur any way and
there was a shadow over his life any
way. Alma and George talked this
after they left Lake and decided to go
over there and was on their way when
I and Kenneth came back to tell them
to not to tell it down to the Diamond
Bar what Kenneth and Alma had done
the night before. I never thought of
such a thing. I and Kenneth never
mentioned it; we were riding along
with several boys, Mark and Fred
Chub and Cotton McGee. I never
wanted to murder Charley; if I had I
had lots of chances. George told me
he had told Eunice that if Char. ever
bothered her and she would tell him
he would kill him, but he said he never
would tell him until coming home
from the picnic, and he made her tell

him, but she did not want to for it
would make trouble that she would
rather leave the country than to have
anything happen.

State of Nebraska, Sheridan County—
ss. I, Harry Heath, of lawful age, of
Cody, Cherry county, Nebraska, being
first duly sworn according to law, de-
pose and say: That I am the Harry
Heath who did on this 21st day of
September, A. D. 1911, make in writ-
ing the foregoing attached statement.
(Signed) Harry Heath.

Dated at Rushville, Nebraska, this
21st day of September, A. D. 1911.

(Seal) H. F. Wasmund, Jr.,
County Clerk in and for Sheridan
County, Nebraska.

By Maude Gillaspie, Deputy.

It has been asserted and repeated
for life for each and every one of the
ment papers by virtue of which the
four convicted men were taken to the
state penitentiary at Lincoln, and that
such warrant of commitment were
made out for term of three years and
not for life imprisonment, and that as
a result the prisoners would be free
in a very short time. These rumors
appear to have been based upon al-
leged statements made by the warden
of the penitentiary, Sheriff Rosseter
and his deputies. We have investi-
gated these rumors closely, and we
find that no such statements were
ever made by the warden of the peni-
tentiary, the sheriff of this county, or
any of his deputies, and furthermore,
the warden of the state penitentiary
of Lincoln has certified to us that
said warrants of commitment were
made out correctly, in due and legal
forms and could bear but the one con-
struction, a sentence of imprisonment
for life for each and every one of the
convicted men.

We believe and find, that one of the
main causes for the arising and spread
of charges of corruption in this mur-
der case was the unprofessional con-
duct of W. B. Kelley, one of the attor-
neys of the defense. It has been
shown to our satisfaction that Mr.
Kelley requested money of his clients
for the purpose of bribing a witness,
or buying a juror or abstracting or de-
stroying in the case, and that he open-
ly told his clients that the money was
to be used for one or all of these pur-
poses. It has been fully shown to our
satisfaction that Mr. Kelley requested
a person whom he believed to be a wit-
ness in this case, to change a state-
ment or an affidavit made by him, and
sought to find and asked what induc-
ement he could offer which would lead
such a witness to make such change.
It appears, however, that Mr. Kelley
was mistaken in the identity of the
person to whom he made this proposi-
tion, and that such person was not a
witness in the case at all, and was not
the man whom Mr. Kelley believed
him to be. We are at a loss which to
condemn most, the moral turpitude
of the inception of this action, or the
bungling inefficiency of its execution.
It seems, however, to us conclusively,
that no part of these plans of Mr. Kel-
ley was ever put into execution, and
we have been unable to find any rea-
son for believing that there was any
corruption in the case, resulting from
his offer.

It has been brought to our notice
that one William Finlayson had made
statements in the village of Cody and
elsewhere prior to the sentencing of
the four men guilty of the murder to
the effect that he had been to Rush-
ville and seen Judge Westover and the
attorneys and that he had fixed this
case so that the boys would receive
the lightest sentence possible under
the law. This statement being re-
peated throughout the county gave
rise to an impression that some cor-
rupt influence had been used by Fin-
layson to effect such a settlement or
compromise, and caused great dissatis-
faction. On this point we have taken
the testimony of every person to whom
Finlayson is known to have talked
on the question, and of Finlayson
himself, and as a result we find that
why Finlayson made some statements
of the kind noted they were absolute-
ly and wholly devoid of truth or founda-
tion. We find, as a matter of fact,
that Finlayson was at Rushville to see
Harry Heath while in jail there, but
that he never saw Judge Westover or
any of the attorneys in the case on
that trip, and we further find that af-
ter the present term of this court be-
gan that Finlayson was so entirely
unacquainted with Judge Westover
that he asked the court bailiff who he
was. This question of his to the
bailiff, asked within the last week,
can not possibly be reconciled with
his previous statements made in Sep-
tember last that he had been to see
Judge Westover and had made a set-
tlement of the cases.

The agitation and excitement aris-
ing out of the murder of Charles Sel-
lers was particularly strong in the
village of Cody, to which town the
territory in which the murder was
committed is adjacent, and in which
all the parties concerned were well
known. The citizens of Cody and its
vicinity did not understand the rea-
son for the acceptance of the plea of
guilty of murder in the second degree
from the four convicted men, or the
reason for the dismissal of the charges
against Eunice Murphy, and in view
of the hideousness of the crime both
of these actions met with their strong-
est disapproval, and their inability to
account for them some suspicions
were raised and expressed as to the
honesty and purity of the court and
its officials in these actions. It ap-
pears that the suspicions were greatly
enhanced by some indiscreet remarks
of County Attorney Tucker, who, be-
ing questioned by citizens of Cody as
to the reasons governing the disposi-
tion of the cases, remarked that the
state had been wronged the first time,
and would be wronged at the ap-
proaching investigation by the grand
jury. This was taken to mean that
Mr. Tucker knew of corruption and
dishonesty in the disposition of these
cases, and caused great indignation
among the people of Cody. After fully
investigating this matter, while we
deprecate the language used by Mr.
Tucker, we find nothing to indicate
that he knew of any corruption or that
he meant his language to be construed
in any such manner.

It has frequently been asked what
were Judge Westover's reasons for di-
recting the acceptance of a plea of
guilty of murder in the second degree
from the four men accused of the
murder of Sellers. It appears from the
evidence and from what the grand jury
is able to gather, that the only object

in putting these men upon trial after
they offered to enter such plea was to
secure a conviction of murder in the
first degree with the death penalty.
If this had been undertaken it would
have required the impaneling of four
juries in Cherry county, of men who
had conscientious scruples against the
death penalty in murder cases, and
who had never formed or expressed an
opinion with reference to the guilt or
innocence of either one of the ac-
cused. The first requirement would
have disqualified at least one-third of
the jurors called, as demonstrated
by experience in the trials of similar
cases in this district; this, then, would
have left two-thirds of the voting popu-
lation of the county from which these
juries must be impaneled. Judge
Westover claimed that he had made a
careful inquiry in the southern and
western part of the county, and was
unable to find or hear of any juror who
would be qualified under the require-
ments under the laws of this state, and
entertained a great doubt as to whether
or not even one qualified juror
could have been impaneled from the
voting population of the county should
this have been undertaken, and the
voting population of the county had
been exhausted without securing a
jury in either one or all of these cases,
then the defendants would have been
entitled to their liberty without trial.
This was the condition which was to
be avoided if possible. Another rea-
son assigned by him for directing the
acceptance of the plea is that in all
the state's of this union it is custom-
ary in trial courts, upon the pleas of
guilty being entered, to impose a less
sentence than would be imposed upon
conviction at the end of a trial. A
third reason assigned is that had the
cases been tried it would in all prob-
ability cost the taxpayers of Cherry
county from \$25,000 to \$40,000 to pay
the expenses, and should the trial
have resulted in conviction of murder
of second degree, or first degree with
imprisonment for life, or manslaughter,
and the accused escape the death
penalty, then the expenditure of this
immense amount of money would
have been unnecessary. Under the
pleas made by the accused the court
sentenced each and every one of them
to imprisonment at hard labor during
their natural life. This seemed to be,
in the judgment of the court, ade-
quate punishment under all the cir-
cumstances. And if the legislative and
executive branches of the government
will see to it that this sentence is
carried out, and that the accused re-
main in the penitentiary, then no per-
son can reasonably complain that the
punishment imposed is inadequate.

After a careful and thorough exami-
nation of all the testimony adduced
with special reference to finding out
whether or not any corrupt influence
was brought to bear upon the state
to secure the acceptance by the state
of a plea of guilty of murder in the
second degree from these four men, it
only remains for us to say that we
find no reason whatever for the ac-
ceptance of this plea other than those
given here in the above, and especial-
ly guilty of murder in the second de-
gree was secured by any corrupt or
improper influence whatever. After
a careful investigation of the whole
subject we are inclined to approve of
the acceptance of this plea as being
to the best interest to the county of
Cherry and its citizens.

As to the dismissal of Eunice Mur-
phy without trial, Judge Westover
made the following statement:

"That when she was arrested and
brought back to Valentine she had a
preliminary before the county judge,
at which time all the evidence against
her which could be found by the state
was submitted. This evidence was
taken by Mr. Scott, the official court
reporter, and shortly thereafter trans-
scribed by him. After a thorough ex-
amination of this evidence I became
satisfied under the law that the evi-
dence was not sufficient to warrant or
sustain a conviction, and on the first
day of the term I took the matter up
with the attorneys of this state, and
asked them if they had more evidence
or different evidence against her than
that produced at the preliminary ex-
amination. They said they had not,
and that the evidence at the trial
would not be as strong against her
as it appeared at the preliminary, for
the reason that at least two circum-
stances which tended to indicate
guilt at the preliminary examination
had afterwards been explained in her
favor. There was, no disagreement
between the court and the attorneys
for the state as to the sufficiency of
the evidence to warrant or sustain a
conviction, and the attorneys of the
state were requested to dismiss the
case rather than to spend the time and
the public funds in what we knew in
advance a useless prosecution. The
attorneys hesitated to do this on ac-
count of the public feeling, but finally
filed a motion to dismiss the case upon
the grounds that a plea of guilty of
murder in the second degree having
been accepted by the court, that she
could then not be successfully prose-
cuted as an accessory, while the
grounds stated in the motion were not
tenable, yet the court being clearly of
the opinion that the evidence was in-
sufficient the grounds alleged in the
motion were disregarded, the motion
sustained, and the action dismissed.
I have since reviewed the matter with
great care, and unhesitatingly state
that the conclusion reached and upon
which I acted at the time this case
was dismissed, was correct in every
particular, and that I could not have
excused myself had I taken any other
action whatever, or permitted the ex-
penditure of public funds in the prose-
cution of a case of which I knew must
fail before it started."

The whole investigation of this case
has failed to furnish us any evidence
which would justify any change in the
sentence as to the prosecution of Eunice
Murphy, referred to in Judge
Westover's statement, and we approve
his action in dismissing the case, and
we believe that in so doing that he
was guided by only honorable motives.
The killing of Charles Sellers ap-
pears to have been the most cold-
blooded and inhuman lynching in the
annals of Cherry county, if not in the
state of Nebraska. After carefully re-
viewing all the testimony, we do not
believe the statements made